

# CITY COUNCIL REPORT



MEETING DATE: January 10, 2006

ITEM NO.

12

GOAL: Coordinate Planning to Balance Infrastructure

## SUBJECT

**Schell GLO Abandonment - 15-AB-2005**

## REQUEST

Request to consider the following:

1. Abandon the 33-foot wide GLO easement along the eastern and western boundary of the north  $\frac{1}{2}$  of GLO lot 35.
2. Abandon the 33-foot wide GLO easement along the western boundary, of the northwest  $\frac{1}{4}$  of GLO lot 34.
3. Abandon the 33-foot wide GLO easement along the eastern boundary and the 8-foot GLO easement along the southern boundary of the southeast  $\frac{1}{4}$  of GLO lot 35.
4. Abandon the 33-foot wide GLO easement along the western boundary, and the 8-foot GLO easement along the southern boundary of the southwest  $\frac{1}{4}$  of GLO lot 34.
5. To adopt Resolution No. 6787 vacating and abandoning a public right-of-way

### Related Policies, References:

General Plan: Community Mobility Element, Trails Master Plan,  
Arizona Revised Statutes: 9-500.24. Federal patent easements; city and town abandonment:

A city or town, by its own motion or at the request of a property owner, may abandon a federal patent easement established by the Small Tract Act of 1938 that the city or town determines, after notifying and obtaining the consent of all affected utilities, is not being used by the public or is no longer necessary in the same manner as other easements are abandoned.

## OWNER/ APPLICANT CONTACT

Pridemark Residential  
480-951-7450

## LOCATION

12884 E Turquoise Avenue

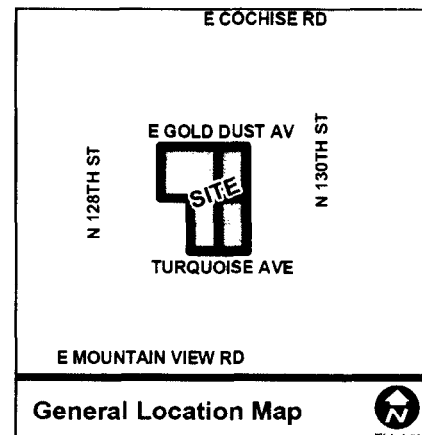
## BACKGROUND

### Background.

The subject 33-foot GLO patent roadway and public utility easements were dedicated on the original GLO patent deed in 1954.

### General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act



was passed in 1938 and repealed in 1976.

- Most GLO lots were patented with 33 feet (or sometimes 50 feet) roadway and public utility easements typically “as near as practicable to the exterior boundaries.”
- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e., lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per our circulation plans. The city’s transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- On 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all right-of-ways, alleys and roadway easements. The City Attorney’s office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.24 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city’s position on abandonment of GLO patent easements.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently, the GLO easements are unimproved.

**Zoning.**

The site is zoned Single Family Residential District, Environmental Sensitive Lands Ordinance (R1-43 ESL).

**Context.**

The lots are not within a subdivision and is described by metes and bounds and fronted along Gold Dust and Turquoise Avenues. The surrounding property is also zoned R1-43 ESL. There are 18 approved GLO abandonment cases located between 124<sup>th</sup> Street to 130<sup>th</sup> Street and from Shea Boulevard south to Mountain View Road.

**APPLICANT’S  
PROPOSAL****Goal/Purpose of Request.**

This request is to abandon the entire 33 feet of GLO roadway and public utility easement along the eastern property boundary and a three-foot wide portion of the easement along the property boundaries located within GLO lots 34 and 35. The GLO easements along the northern property boundaries will remain in place to be used as a trail easement.

**Key Issues.****CITY IMPACT:**

- Maintains consistency with city street standards as approved by the city transportation department.

*NEIGHBORHOOD IMPACT:*

- The surrounding properties all have existing access. Walls, structures and buildings historically exist within, and around the GLO easements in this area.

*PROPERTY OWNER IMPACT:*

- Allows the existing buildings to remain in place without encroachment into the existing GLO easements.

There are four parcels included in this abandonment application and three of the parcels have structures that encroach within the existing GLO easements.

**IMPACT ANALYSIS**

**Departmental Responses.**

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

**Community Involvement.**

The City installed signage at the roadway alignments alerting neighbors in the area of the request. Surrounding property owners within 750 feet have been notified by the applicant through first class mailing. There have been no general inquiries or comments at the time of writing this report.

**OTHER BOARDS AND COMMISSIONS**

**Planning Commission.**

The Planning Commission heard this case on October 19, 2005. One citizen had questions regarding the legality of this abandonment.

**RECOMMENDATION**

Planning Commission recommended approval, 4-0.

**RESPONSIBLE**

**Planning and Development Services Department**

**DEPT(S)**

**STAFF CONTACT(S)**

Greg Williams  
Senior Planner  
480-312-4205

E-mail: gwilliams@ScottsdaleAZ.gov


Randy Grant  
Chief Planning Officer  
480-312-7995

E-mail: rgrant@ScottsdaleAZ.gov

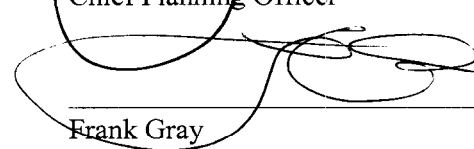
**Scottsdale City Council Report**

**15-AB-2005**

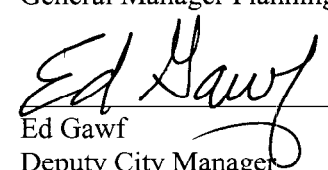
**APPROVED BY**

  
Randy Grant  
Chief Planning Officer

11/22/05  
Date

  
Frank Gray  
General Manager Planning and Development Services

11/28/05  
Date

  
Ed Gawf  
Deputy City Manager

11/28/05  
Date

**ATTACHMENTS**

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Right-of-Way and Easements
5. Area Trails Plan
6. City Notification Map
7. October 19, 2005 Planning Commission Minutes
8. Resolution No. 6787

# CASE 15-AB-2005

## Department Issues Checklist

### Transportation

☒ **Support**

Access for these parcels will be along Gold Dust and Turquoise Avenues.

### Trails

Gold Dust is shown on the Trails Plan as a trail alignment. A local residential street requires a 30-foot half street for roads with trails along them. Currently there is a 25-foot half street, so an additional 5-foot of right-of-way is needed. All lots along this street are developed and it will be difficult to acquire an additional 5-feet of frontage for right of way purposes.

This abandonment cannot be supported by the trails planner because without the additional 5-feet of right of way dedication Gold Dust Road will not meet the requirement of the Trails Master Plan.

The GLO easement along Gold Dust Road will remain in place to provide access for the planned trail alignment.

### Public Utilities

☒ **Support**

All utility companies have sent letters of support for this abandonment request with no reservations.

### Emergency/Municipal Services

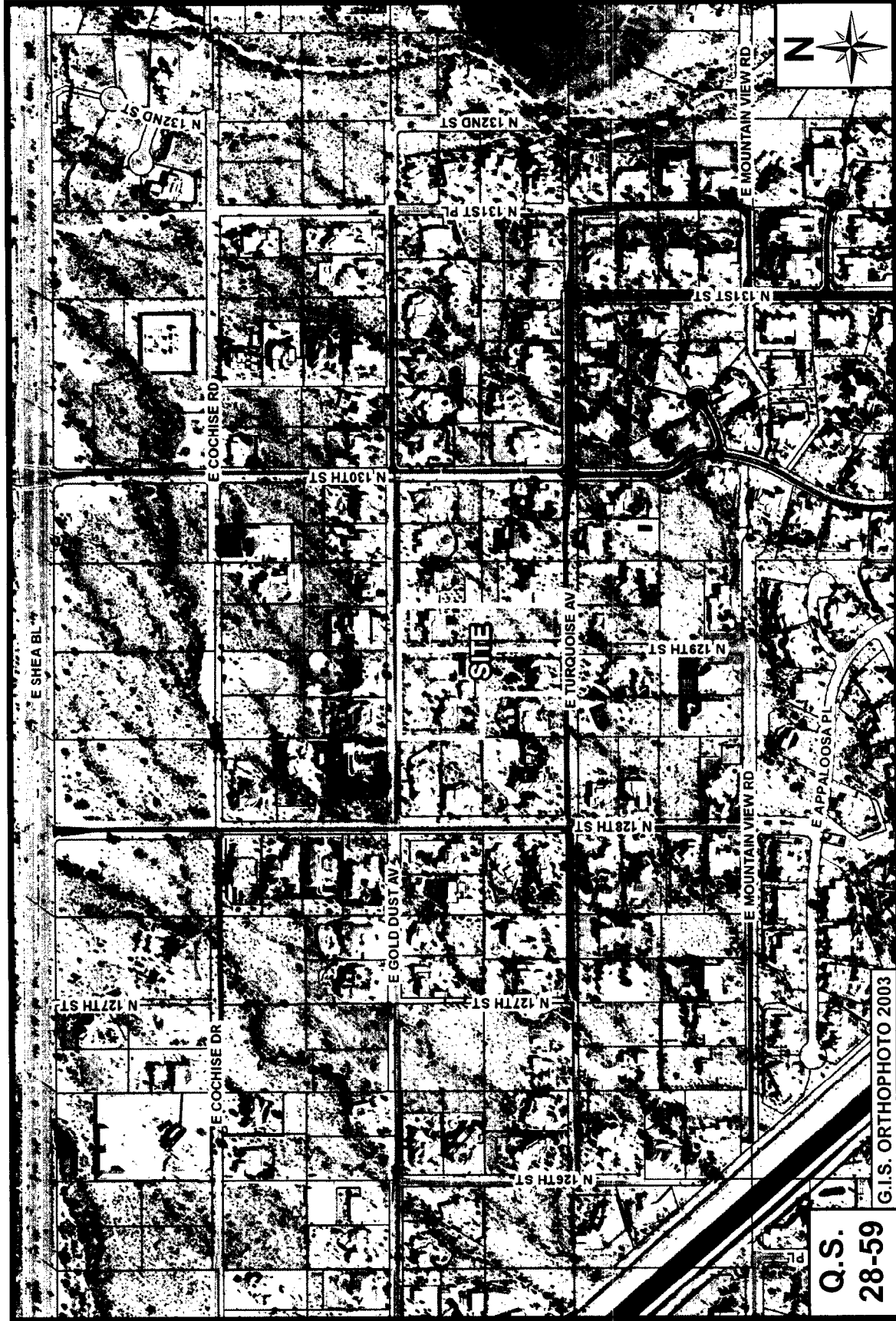
☒ **Support**

This request does not impact the ability to serve these properties or adjacent properties.

### Water/Sewer Services

☒ **Support**

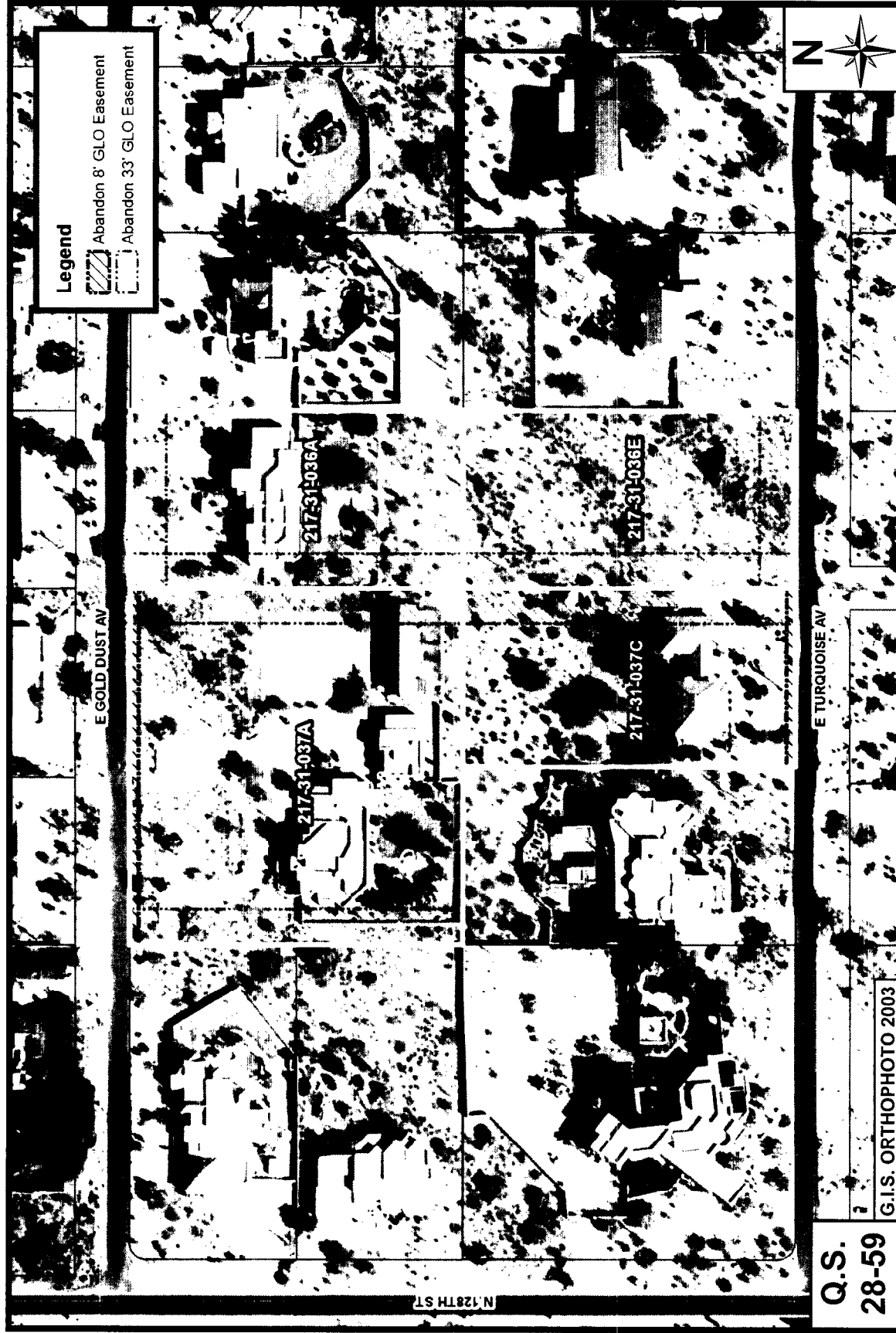
This request does not impact the ability to serve any properties in the surrounding areas.



15-AB-2005

Schell GLO Abandonment

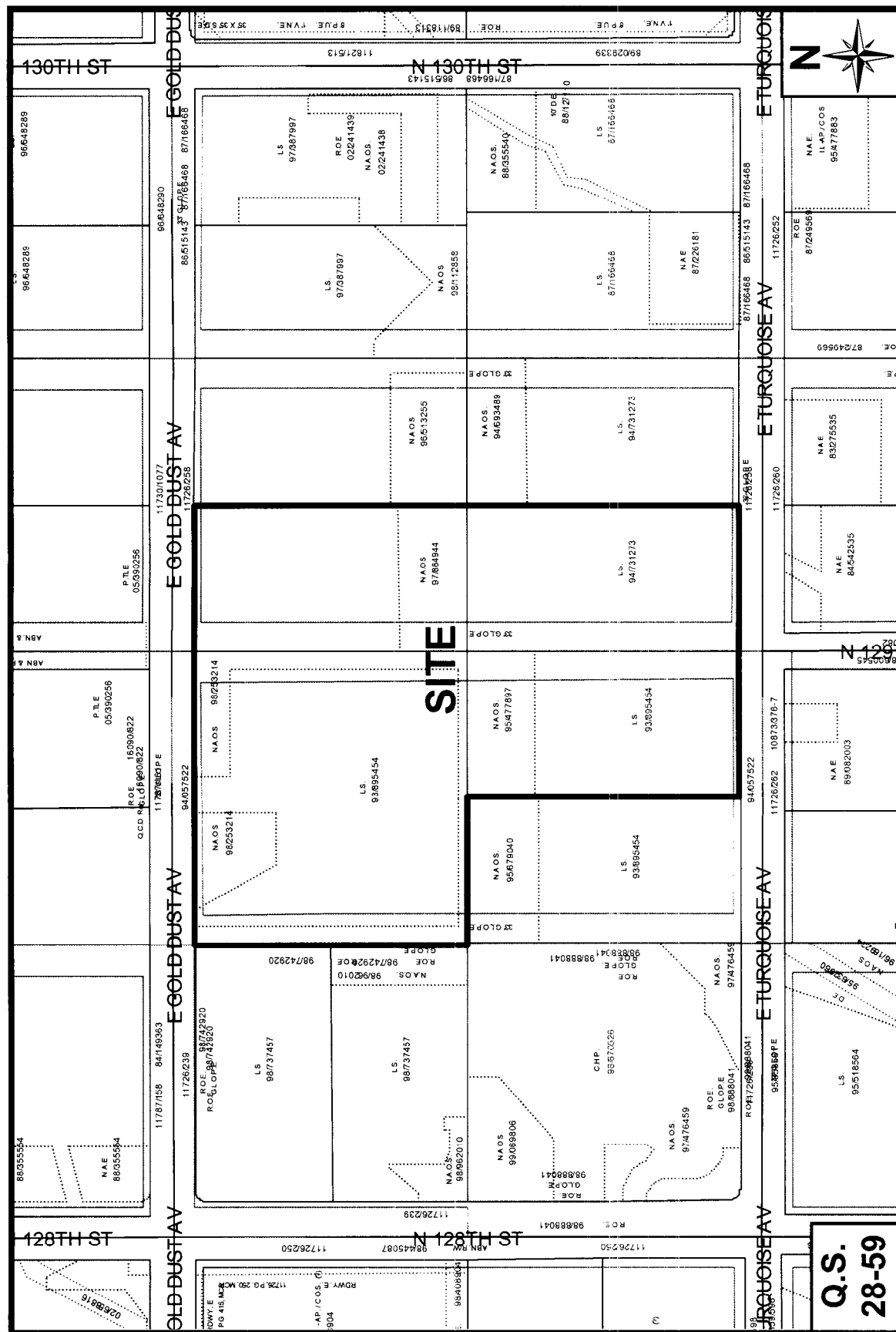
ATTACHMENT #2



## Schell GLO Abandonment

15-AB-2005

ATTACHMENT #3



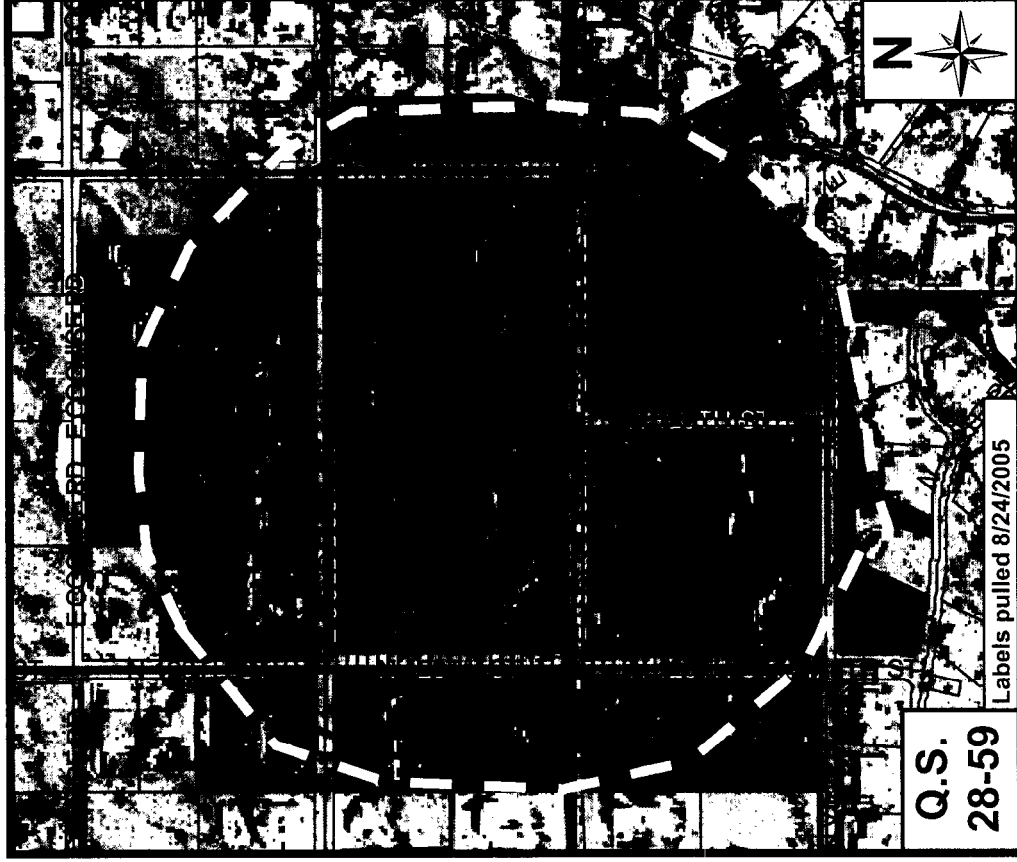
**15-AB-2005**

## Easements & Right-of-Way ATTACHMENT #4





# City Notifications – Mailing List Selection Map



## Map Legend:



Site Boundary

Properties within 750 feet

## Additional Notifications:

- Interested Parties List
- Adjacent HOAs

## Schell GLO Abandonment

## 15-AB-2005

ATTACHMENT #6

## **CONTINUANCES**

2. 15-ZN-2005 (Silverstone)
3. 13-UP-2005 (Scottsdale & Pinnacle Peak Mxd)
4. 15-AB-2004 ( Biel Property)
5. 11-AB-2005 (Hettinger Abandonment)
6. 6-AB-2005 (Pinnacle Peak Place)
7. 7-AB-2005 (Pinnacle Peak Place)

**COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 15-ZN-2005 TO NOVEMBER 9TH, 2005; 13-UP-2005 TO THE NOVEMBER 9TH, 2005 MEETING; 15-AB-2004 TO A DATE TO BE DETERMINED; 11-AB-2005 TO NOVEMBER 9TH, 2005; 6-AB-2005 TO A DATE TO BE DETERMINED; 7-AB-2005 TO OCTOBER 26TH, 2005.**

**THE MOTION WAS SECONDED BY COMMISSIONER STEINKE AND CARRIED UNANIMOUSLY WITH A VOTE OF FOUR (4) TO ZERO (0).**

## **EXPEDITED AGENGA**

8. 5--UP-2004#2 (Jamacian Blue)
9. 13-AB-2005 (DeAtley Residence)
10. 15-AB-2005 (Schell GLO Abandonment)

Chairman Gulino confirmed that all questions by Commissioners regarding case number 15-AB-2005 had been answered satisfactorily.

Mr. Spiro requested a staff presentation. Mr. Williams presented the case per the staff packet, reiterating that the Applicant has agreed to maintain the northern boundary easement and is no longer seeking abandonment of that portion of the property.

Leon Spiro, addressed the Commission and Ms. Bronski, expressing his opinions and opposition to approval of GLO abandonments.

Upon invitation by Chairman Gulino, Ms. Bronski recalled a presentation to City Council by outside counsel that was requested by Mr. Spiro and noted that as a result, Council renewed their policy of investigating and considering, on a case-by-case basis, whether or not to abandon GLO easements. She reminded Commissioners that this is the directive received from Council.

Chairman Gulino reiterated that the purpose of the Planning Commission is to discuss the land use issues associated with the abandonments; not the legal

issues. Ms. Bronski confirmed that it is the purview of the Council to consider the legal issues.

Upon no further comments or questions,

**COMMISSIONER SCHWARTZ MOVED TO APPROVE CASE 5-UP-2004#2  
BECAUSE IT MEETS THE SPECIAL USE REQUIREMENTS; CASE 13-AB-2005  
AND CASE 15-AB-2005. THE MOTION WAS SECONDED BY  
COMMISSIONER STEINKE AND CARRIED UNANIMOUSLY WITH A VOTE  
OF FOUR (4) TO ZERO (0).**

**WRITTEN COMMUNICATION**

None.

**ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 5:15 p.m.

Respectfully submitted,  
AV-Tronics, Inc.

**APPROVED**

## RESOLUTION NO. 6787

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ABANDONING A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR 129<sup>TH</sup> STREET BETWEEN GOLD DUST AVENUE AND EAST TURQUOISE AND FOR A PUBLIC RIGHT-OF-WAY BETWEEN 128<sup>TH</sup> STREET AND 129<sup>TH</sup> STREET SOUTH OF GOLD DUST AVENUE AND FOR A PUBLIC RIGHT-OF-WAY AT THE NORTHEAST AND NORTHWEST CORNERS OF 129<sup>TH</sup> STREET AND TURQUOISE AVENUE

(15-AB-2005)

### WHEREAS:

A. A.R.S. §9-500.24 and A.R.S. §28-7201, et seq. provide that a city may dispose of a roadway or portion thereof when said property or portion thereof is no longer necessary for public use.

B. After notice to the public, hearings have been held before the Planning Commission and Council of the City of Scottsdale ("City") on the proposed abandonment of the street right-of-way (the "Abandonment Right-of-way") described on Exhibit "A" attached hereto (the "Map").

C. The City Council finds that the Abandonment Right-of-way is no longer necessary for public use.

D. The City Council finds that consideration and other public benefit commensurate with the value of the property, giving due consideration to its degree of fragmentation and marketability, will be provided to the City by the owner of the abutting property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

1. Abandonment. Subject to the reservations below, the Abandonment Right-of-way is abandoned as public street right-of-way.

2. Reservations. All of the following interests are reserved to City and excluded from this abandonment:

2.1 Any N.V.A.E. or other non-vehicular access easement or covenant in favor of the City that may already affect the Abandonment Right-of-way prior to this resolution.

2.2 Any N.A.O.S. or other open space easement or covenant in favor of the City that may already affect the Abandonment Right-of-way prior to this resolution.

2.3 An easement for all existing utilities.

2.4 Such rights and interests, if any, as are required to be reserved by A.R.S. §§28-7210 and 28-7215.

3. Clarification. The Abandonment Right-of-way does not include any part of the Turquoise Avenue right-of-way lying west of "Parcel D" as shown on the Map.

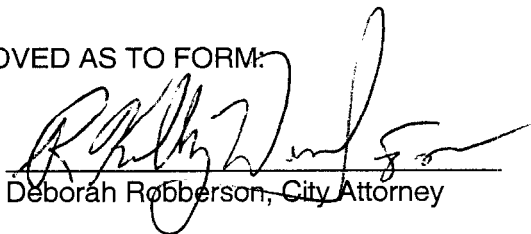
PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_ day of \_\_\_\_\_, 2006.

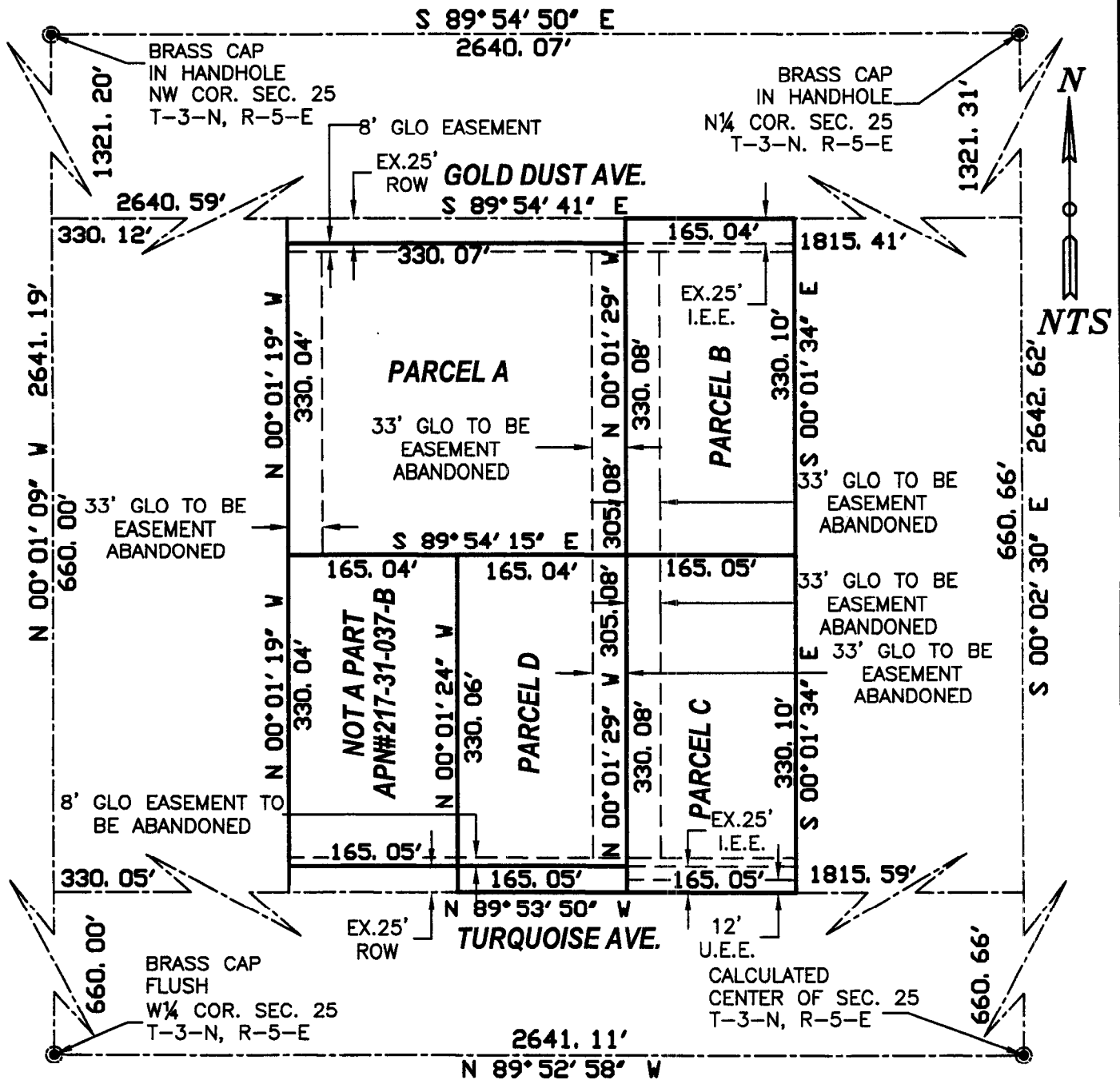
\_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

By:   
Deborah Robberson, City Attorney



**ALLEN  
CONSULTING  
ENGINEERS, INC.**

2550 N. THUNDERBIRD CIRCLE #132  
MESA, ARIZONA 85215  
PHONE (480) 844-1666  
FAX (480) 830-8453

**EXHIBIT "A"**

**GLO EASEMENT ABANDONMENT**

SHEET 1 OF 10

JOB NUMBER 93527

DRAWING EXHIBIT-TOTAL

DATE 11-30-05

## PARCEL INFORMATION

### PARCEL A

N 1/2 GLO LOT 35  
JOHN & SUSAN STANLEY  
12845 E. GOLD DUST AVE.  
SCOTTSDALE, AZ 85259  
APN:217-31-037-A

### PARCEL B

NW 1/4 GLO LOT 34  
LARRY & LINDA SILVER  
12915 E. GOLD DUST AVE.  
SCOTTSDALE, AZ 85259  
APN:217-31-036-A

### PARCEL C

SW 1/4 GLO LOT 34  
S & S INVESTMENT HOLDINGS, LLC  
PO BOX 5387  
SCOTTSDALE, AZ 85261  
APN: 217-31-036-E

### PARCEL D

SE 1/4 GLO LOT 35  
CLYDE & ELAINE TRESSLER  
12884 E. TURQUOISE AVE.  
SCOTTSDALE, AZ 85259  
APN: 217-31-037-C

## LEGEND

ROW	RIGHT OF WAY
U.E.E.	UNDERGROUND ELECTRIC EASEMENT
I.E.E.	INGRESS AND EGRESS EASEMENT
◎	BRASS CAP FLUSH



**ALLEN**  
**C**ONSULTING  
**E**NGINEERS, INC.

2550 N. THUNDERBIRD CIRCLE #132  
MESA, ARIZONA 85215  
PHONE (480) 844-1666  
FAX (480) 830-8453

### **EXHIBIT "A"**

### **GLO EASEMENT ABANDONMENT**

SHEET 2 OF 10

JOB NUMBER

93527

DRAWING

EXHIBITCOVER

DATE

11-30-05



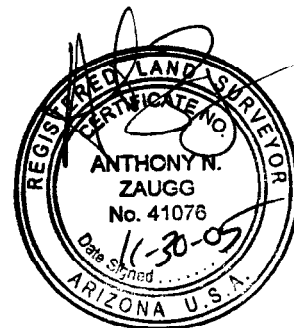


## **GLO EASEMENT ABANDONMENT**

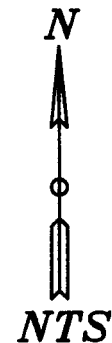
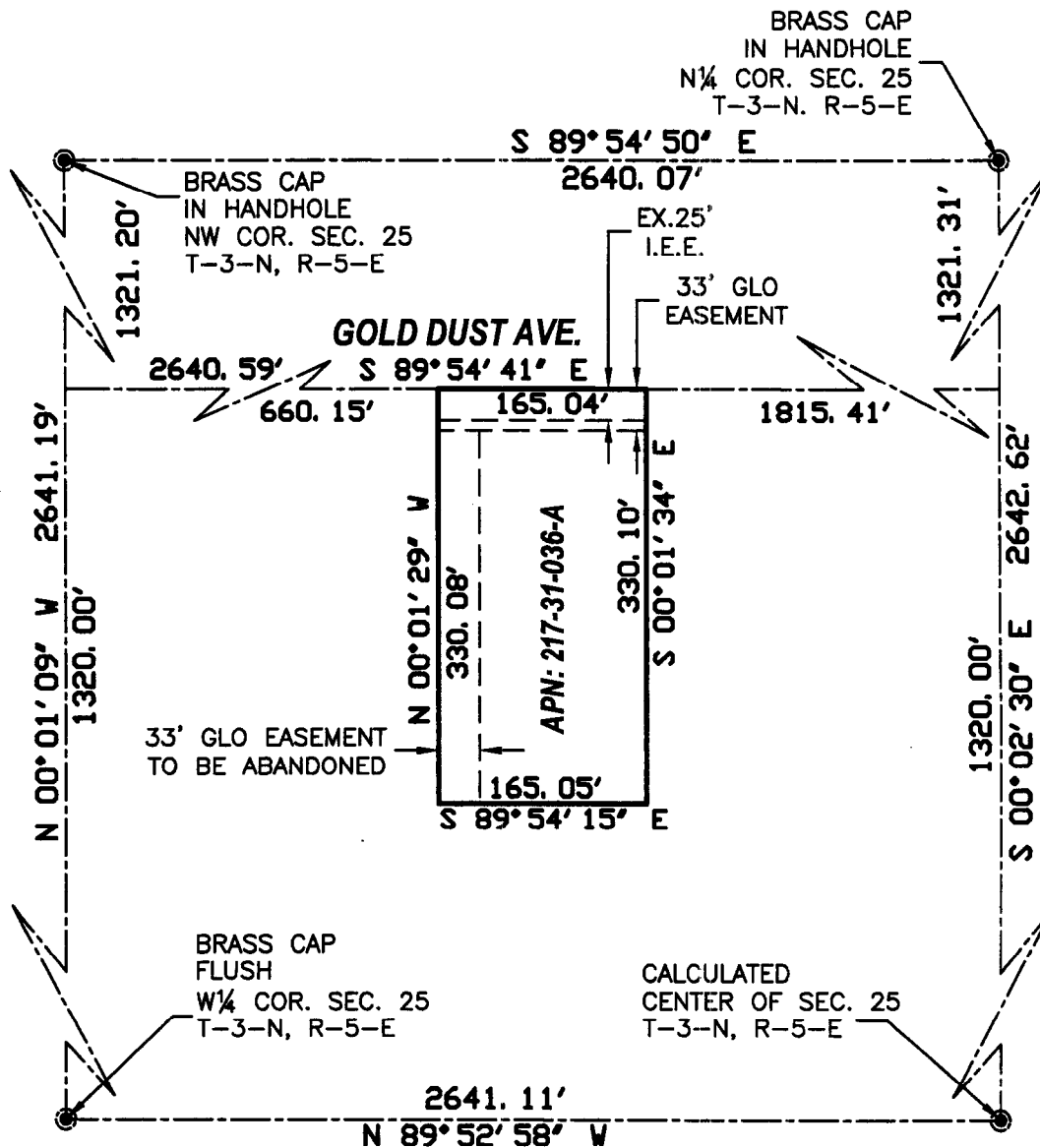
THE FOLLOWING PORTION OF AN EXISTING GLO EASEMENT IS TO BE ABANDONED:

THE EAST 33.00 FEET AND THE WEST 33.00 FEET OF THE NORTH HALF OF GLO LOT 35,  
TOWNSHIP 3 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN,  
MARICOPA COUNTY, ARIZONA.

EXCEPT THE NORTH 33.00 FEET.

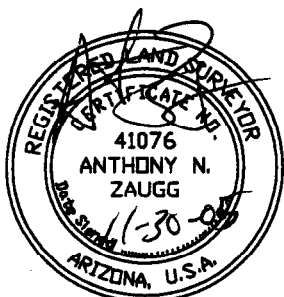


(PARCEL A)  
SHEET 4 OF 10  
JOB # 93527



OWNER  
LARRY & LINDA SILVER  
12915 E. GOLD DUST AVE.  
SCOTTSDALE, AZ 85259

LEGEND  
● BRASS CAP FLUSH  
I.E.E. INGRESS AND EGRESS EASEMENT



2550 N. THUNDERBIRD CIRCLE #132  
MESA, ARIZONA 85215  
PHONE (480) 844-1666  
FAX (480) 830-8453

EXHIBIT "A" SILVER PROPERTY (PARCEL B)  
GLO EASEMENT ABANDONMENT

SHEET 5 OF 10

JOB NUMBER 93527

DRAWING EXHIBIT2

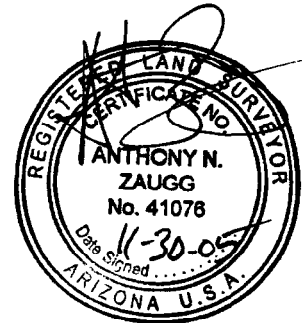
DATE 11-30-05

## GLO EASEMENT ABANDONMENT

THE FOLLOWING PORTION OF AN EXISTING GLO EASEMENT IS TO BE ABANDONED:

THE WEST 33.00 FEET OF THE WEST HALF OF THE NORTH HALF OF GLO LOT 34, TOWNSHIP 3 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE NORTH 33.00 FEET.



(PARCEL B)  
SHEET 6 OF 10  
JOB # 93527

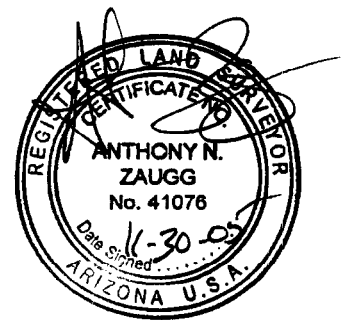


## **GLO EASEMENT ABANDONMENT**

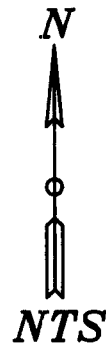
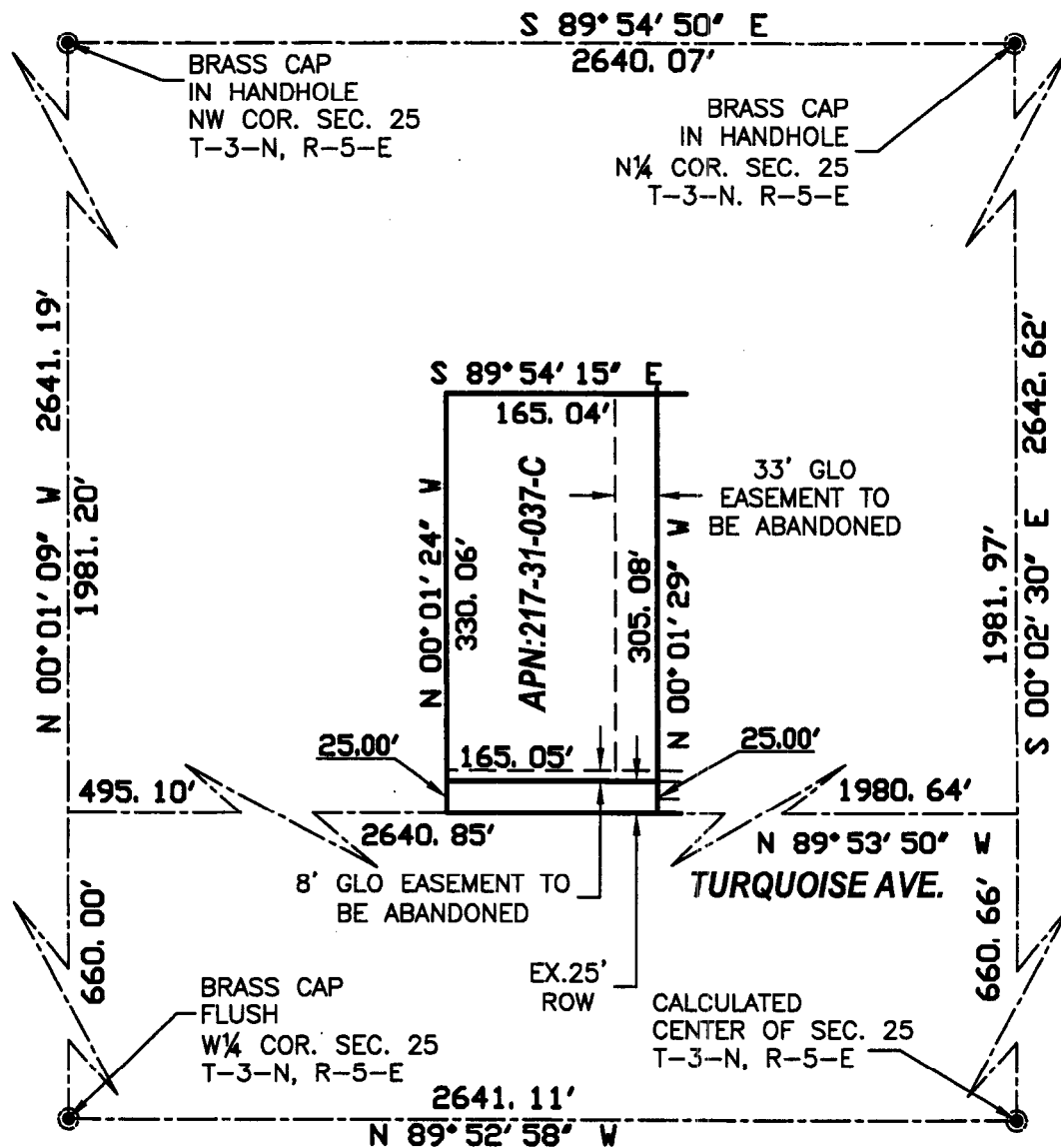
THE FOLLOWING PORTION OF AN EXISTING GLO EASEMENT IS TO BE ABANDONED:

THE WEST 33.00 FEET AND THE SOUTH 33.00 FEET OF THE WEST HALF OF THE SOUTH HALF  
OF GLO LOT 34, TOWNSHIP 3 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE  
AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE SOUTH 25.00 FEET.

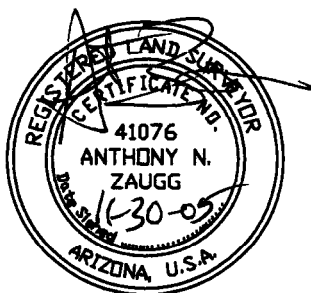


(PARCEL C)  
SHEET 8 OF 10  
JOB # 93527



**OWNER**  
CLYDE & ELAINE TRESSLER  
12884 E. TURQUOISE AVE.  
SCOTTSDALE, AZ 85259

**LEGEND**  
● BRASS CAP FLUSH  
ROW RIGHT OF WAY



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PHONE (480) 844-1666  
FAX (480) 830-8453

**EXHIBIT "A" TRESSLER PROPERTY (PARCEL D)**  
**GLO EASEMENT ABANDONMENT**

SHEET 9 OF 10

JOB NUMBER 93527

DRAWING EXHIBIT 4

DATE 11-30-05

## GLO EASEMENT ABANDONMENT

THE FOLLOWING PORTION OF AN EXISTING GLO EASEMENT IS TO BE ABANDONED:

THE EAST 33.00 FEET AND THE NORTH 8.00 FEET OF THE SOUTH 33.00 FEET OF THE EAST  
HALF OF THE SOUTH HALF OF GLO LOT 35, TOWNSHIP 3 NORTH, RANGE 5 EAST OF THE  
GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE SOUTH 25.00 FEET.



(PARCEL D)  
SHEET 10 OF 10  
JOB # 93527